

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

NORMANDIN LUC,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

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CIVIL NO. 3:CV-15-681

(Judge Conaboy)

**FILED
SCRANTON**

APR 09 2015

MEMORANDUM

Background

PER


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This pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 was filed by Normandin Luc, an inmate presently confined at the Moshannon Valley Correctional Institution, Philipsburg, Pennsylvania (Moshannon Valley). The required filing fee has not been paid and an in forma pauperis application has not been filed. For the reasons outlined herein, Luc's action will be transferred to the United States District Court for the Western District of Pennsylvania.

Named as sole Respondent is the United States of America.¹ Petitioner indicates that he is a non-violent offender presently serving a federal criminal sentence. Luc states that he is willing to waive his rights for a deportation hearing prior to the

¹ The only properly named Respondent in a federal habeas corpus action is Petitioner's custodial official, in this case the Moshannon Valley Warden. See 28 U.S.C. § 2242.

completion of his sentence. See Doc. 1, p. 1.

Petitioner's pending action does not challenge the legality of his federal criminal conviction or resulting sentence. Rather, Luc requests only that he be immediately deported back to his native country without having to complete the remainder of his sentence.²

Discussion


Relief pursuant to § 2241 may only be sought in the district court having jurisdiction over a petitioner's custodian. See Rumsfeld v. Padilla, 542 U.S.426, 442 (2004)(jurisdiction for habeas corpus petitions challenging present physical confinement lies in only one district; the district of confinement); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 494-95 (1973).

Although having a mailing address as Phillipsburg, Pennsylvania, which is located in Centre County and within the confines of the Middle District of Pennsylvania, Moshannon Valley Correctional Center is actually located in Decatur Township, Pennsylvania, on the eastern edge of Clearfield County, which is within the jurisdiction of the United States District Court for the Western District of Pennsylvania. See Tsoukalas v. United States, 215 Fed. Appx. 152 (3d Cir. 2007)(jurisdiction over a § 2241

² Habeas corpus review under § 2241 "allows a federal prisoner to challenge the 'execution' of his sentence." Woodall v. Federal Bureau of Prisons, 432 F.3d 235, 241 (3d Cir. 2005). Review is available "where the deprivation of rights is such that it necessarily impacts the fact or length of detention." Leamer v. Fauver, 288 F.3d 532, 540 (3d Cir. 2002).

petition filed by Moshannon Valley inmate rests with the Western District of Pennsylvania).

As recognized in Tsoukalas, this Court lacks jurisdiction over the Warden of Moshannon Valley. A court may transfer any civil action for the convenience of the parties or witnesses, or in the interest of justice, to any district where the action might have been brought. 28 U.S.C. § 1404(a). Consequently, this matter will be transferred to the United States District Court for the Western District of Pennsylvania pursuant to § 1404(a). An appropriate Order will enter.



RICHARD P. CONABOY
United States District Judge

DATED: APRIL ^{9th}, 2015